

EXHIBIT A

1
2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

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4 HICKSVILLE WATER DISTRICT,
5 Plaintiff,

6
7 -against- Civil Action No.:
8 2:19-cv-06070-PKC-RML

9 JERRY SPIEGEL ASSOCIATES, INC., et al.,

Defendants.

-----X

10
11 111 Great Neck Rd Suite 600
12 Great Neck, NY 11021
November 29, 2023
10:26 a.m.

13
14
15 VIDEOTAPED EXAMINATION BEFORE TRIAL of PAUL
16 GRANGER, a Non-Party Witness herein, taken by
17 the Plaintiff, held at the above-mentioned
18 location, pursuant to Subpoena, taken before
19 DANIELLE DEYOUNG, a Shorthand Reporter and Notary
20 Public in and for the State of New York.
21
22
23
24
25

1 P. GRANGER

2 product these manufacturers produced?

3 A Well, the primary ones would
4 be PFOA and PFOS.

5 Q Are you referencing a
6 litigation filed against manufacturers of
7 firefighting foams containing PFOS, or
8 perfluorinated compounds?

9 A Yes.

10 Q Is there any other -- so other
11 than the action filed against the
12 manufacturers of the firefighting foams,
13 are there any other litigations that
14 Hicksville Water District has filed
15 relating to contamination by
16 perfluorinated compounds?

17 A Outside of -- so the -- the
18 case I'm here, today, involves, you know,
19 the perfluorinated compounds. So outside
20 of that, and the manufactures, no.

21 Q Okay. With respect to the
22 firefighting foams case, are you aware of
23 any settlements or potential settlements
24 that have been reached in that case?

25 A Yeah. There -- there is a

1 P. GRANGER

2 potential settlement.

3 Q Are you aware if the Water
4 District is going to receive settlement
5 funds in connection with this potential
6 settlement?

7 A The board is still deciding --
8 I forget the exact dates when that
9 determination needs to be made; but the
10 way I understand the settlement, or the
11 proposed settlement that is on the table
12 is that the District has to opt out if it
13 does not want to proceed. So my board
14 has not made that determination as of --
15 at this time.

16 Q I think you referenced a date
17 by which the Board of the Hicksville
18 Water District will make a determination,
19 correct?

20 A Correct.

21 Q Do you know what that date is?

22 A I -- there were many dates
23 thrown out, but it's a date in December,
24 and it is coming up close. If you don't
25 mind, I -- I have to -- I have a water

1 P. GRANGER

2 main break. If we could take a quick
3 break.

4 MS. KAPOANO: Yes, we can take a
5 quick break. We can go off the
6 record.

7 THE VIDEOGRAPHER: We are now off
8 the record. The time on the video
9 monitor is 10:57 a.m.

10 (Whereupon, a recess took
11 place.)

12 THE VIDEOGRAPHER: We are now
13 back on the record. The time on the
14 video monitor is 11:05 a.m.

15 MR. GITELMAN: Ariel, before we
16 go, you marked 21 as five, right?

17 MS. KAPOANO: I did not. So I am
18 going to mark tab 21 as Exhibit 5.

19 (Whereupon, Exhibit 5 was
20 marked for
21 identification.)

22 BY MS. KAPOANO:

23 Q Mr. Granger, hopefully the
24 water main break is settled.

25 A It is. Thank you.

1 P. GRANGER

2 Q So to the extent that the
3 Water District has admitted in their
4 interrogatory responses that the only
5 sites that these particular defendants
6 named in this lawsuit have caused release
7 of 1,4-dioxane, impacting Plants 4 and 5.

8 And I don't have all to have
9 the documents to show you, so I'm just
10 doing to represent that that's the Water
11 District's submission. Can you confirm
12 that the Water District is not seeking
13 the cost to install AOP treatment at
14 Plants 1, 6, 8, 9, 11 and potentially 10?

15 A Yeah. Those costs -- if those
16 wells are not being impacted by the
17 defendants, we would not roll those costs
18 into those --

19 Q So --

20 A -- damages.

21 Q I'm sorry to cut you off.

22 So the Water District, in this
23 litigation, is seeking to be compensated
24 for the costs to install as well as
25 operate and maintain, the AOP treatment

1 P. GRANGER

2 systems that have been implemented at
3 Plants 4 and 5 only. Is that accurate?

4 A Yes.

5 MS. KAPOANO: Okay. Let's turn
6 to tab 13, and we are going to mark
7 that as Exhibit 10.

8 (Whereupon, Exhibit 10
9 was marked for
10 identification.)

11 MS. KAPOANO:

12 Q Mr. Granger, do you recognize
13 the document at tab 13?

14 A Yes.

15 Q And what is this?

16 A This was a document that was
17 prepared by the Hicksville Water District
18 signed by the superintendent at that time
19 that was sent to the EPA.

20 Q What is the subject of this
21 letter that was sent by the Water
22 District to the EPA?

23 A If you don't mind, I will go
24 through the letter.

25 Q Sure take your time.

1 P. GRANGER

2 funding source"; one is denoted with the
3 line "settlement," and the other one is
4 "2018 bond." Do you see that?

5 A Yes.

6 Q Are these numbers listed
7 here -- first of all, are these numbers
8 reflecting the total -- sorry, strike
9 that.

10 So first this settlement
11 number that's listed here, what's that
12 number?

13 A That number is from a prior
14 settlement. I am just trying to recall
15 the particular case. And there was a
16 case where the settlement could only be
17 used for Plant 4, I believe.

18 Q So just following the chart
19 here, it appears as though the total
20 costs that have been paid so far for the
21 interim treatment plant at Plant 4, that
22 3.1 million number, has been taken
23 entirely from the settlement amount
24 listed here of 3,544,576; is that
25 accurate?

1 P. GRANGER

2 A Yes.

3 Q Okay. And there is still a
4 remaining balance from the settlement
5 that you referenced has been earmarked
6 for Plant 4 of \$441,4-dioxane16?

7 A Yes.

8 Q And the 2018 bond number
9 listed here which is 5.479 million. And
10 it appears, according to this chart, that
11 that amount has not been tapped into yet;
12 is that correct?

13 A Correct.

14 Q So for the remaining cost
15 estimate for the permanent phase of the
16 AOP treatment at Plant 4, what do you
17 expect the funding source to be?

18 A So it could be from the 2018
19 bond. It's all a function of cash flow.
20 And since we did receive a grant for the
21 plant, but it's a reimbursement grant,
22 not -- they don't front you the money.

23 So once you receive the
24 settlement money, then you the tap into
25 the bond money. Then that would mean we

1 P. GRANGER

2 believe you just clarified that
3 represents total from the WIIA grant? Is
4 that the Water Infrastructure Improvement
5 Act? Is that what that's an acronym for?

6 A Yes.

7 Q Okay. So that number is both
8 from the WIIA grant and the small SUNY
9 grant that was received for the pilot
10 study, right?

11 A Yes.

12 Q Okay. So it looks like from
13 this chart, the Water District has
14 received this 2186938 number from those
15 two grant funding sources; is that
16 correct?

17 A Yes.

18 Q But as you just testified, the
19 total funding so far for the Plant 4
20 treatment system has come solely from the
21 Plant 4 settlement; is that correct?

22 A Yes. That was used to --
23 yeah, so you need to put the money out so
24 the grant reimburses you that, so yes, if
25 you follow the columns, that's correct.

1 P. GRANGER

2 obviously segregated because it's
3 identified separately. It was, at that
4 time, a separate account.

5 Q And are there restrictions on
6 the ways in which the Water District can
7 spend those funds that have been placed
8 in the settlement fund?

9 A I'd have to go back to some of
10 the -- perhaps the resolutions. I think
11 the restriction would be based on the
12 agreement in the settlement.

13 Q So there would be particular
14 board meeting resolutions relating to the
15 conditions under which the Water District
16 could spend those monies received in
17 settlement?

18 A There may be.

19 Q Okay. And as we went through
20 the cost report earlier, one way to look
21 at how the Water District has spent those
22 funds is to see how it's outlined in the
23 cost reports for each plant?

24 A Oh, yes.

25 Q Okay. We're going to turn to

1 P. GRANGER

2 Q And it says "under funding
3 source" 4,266,627; do you see that?

4 A Yes.

5 Q And then the following column
6 says "amount paid as of 12/31/22," and
7 that number is in parenthesis; do you see
8 that?

9 A Yes.

10 Q Does that indicate, to date,
11 the cost to install Plant 5 AOP treatment
12 system -- strike that.

13 Does that indicate that, to
14 date, of the cost that has been spent to
15 install AOP treatment at Plant 5
16 \$4.299 million of that cost came from a
17 settlement?

18 MS. KAPOANO: Sorry. Could your
19 read that back?

20 (Whereupon, the requested
21 testimony was read back
22 by the reporter.)

23 BY MS. KAPOANO:

24 Q Do you understand the
25 question?

1 P. GRANGER

2 A Yes.

3 Q And your answer?

4 A Is, yes.

5 Q Okay. And just real quick,
6 the total cost that has been spent to
7 date for Plant 5, is that number that's
8 represented next to "total paid" section
9 that begins with nine point -- the
10 \$9,621,577?

11 A Yes.

12 Q Okay. So total cost for Plant
13 5 would be -- total cost for Plant
14 5 treatment, as of the date of this
15 document, is be represented by the \$9.6
16 million-dollar number, correct?

17 A Yes.

18 Q And the sources of funding for
19 that total number can be found in the
20 table below that number.

21 A Yes.

22 Q Okay. Do you believe four
23 point -- the nearly 4.3 million number
24 listed here, do you believe that that
25 number -- strike that.

1 P. GRANGER

2 Do you believe that the
3 4,299,627 dollar-number listed here stems
4 from the Plant 5 VOC litigation that we
5 discussed earlier?

6 A Stems from that -- so also,
7 I'm just thinking aloud, because the
8 district was -- it's my understanding,
9 the Water District was part of that the
10 MTBE litigation, so I'm not sure if that
11 settlement money was also co-mingled in
12 that, or was it spent down. So it was a
13 lot of -- so if there was a settlement
14 with regard to four and five, so the
15 answer -- you know, that money probably
16 is in that amount.

17 Q Well, we are discussing two
18 settlements here. We discussed the Plant
19 4 settlement?

20 A And there's a separate
21 settlement for five.

22 Q And is it your testimony that
23 there's a separate settlement for Plant
24 5, which I believe you referenced earlier
25 when we looked at the complaint filed for

1 P. GRANGER

2 Plant 5.

3 A Yes.

4 Q Okay. Where can we find --
5 strike that.

6 You just mentioned that it is
7 possible that other settlement funds have
8 been co-mingled and potentially
9 recommended by the total amount listed
10 here, correct?

11 A It's possible, but then the
12 MTBE the settlement was so far away that
13 that money may have been expended. Once
14 again, I shouldn't speculate because I
15 wasn't there to follow the bouncing ball
16 of accounting, but I can certainly answer
17 your questions with regard to the
18 settlements that are more recent.

19 Q Where would we find the
20 information that we are requesting here,
21 which is specifically: To what extent
22 does the line item here denoted with the
23 word "settlement," to what extent does
24 that come from the Plant 5 VOC
25 settlement? Where can we find that

1 P. GRANGER

2 information?

3 A Surely, there would be some
4 accounting for that, so I would have to
5 review that with our treasurer.

6 MR. GITELMAN: Can you go back a
7 few minutes to looking at Plant 5
8 costs, and you mentioned some line
9 that total cost, and I think you
10 looked at the wrong line. Can you go
11 back to that?

12 MS. KAPOANO: Okay. The total
13 paid amount for Plant 5 treatment as
14 represented on this document, where
15 can I find that?

16 MR. GITELMAN: Total paid amount.
17 Okay. You said "total cost."
18 Total --

19 THE WITNESS: She said total
20 paid.

21 MR. GITELMAN: Okay. Thank you.

22 BY MS. KAPOANO:

23 Q Going back to what you just
24 referenced as far as looking at the
25 accounting documents, what accounting

1 P. GRANGER

2 documents are you referencing?

3 A Whatever my treasurer has in
4 order to break down those settlements, if
5 he has such documents.

6 Q So it's your understanding
7 that there are documents that are
8 maintained by the Water District, and
9 specifically that are -- strike that.

10 So it's your understanding
11 that there are accounting documents
12 maintained by the Water District that
13 would contain a further breakdown of
14 where and when the funding listed here
15 under the line item "settlement" comes
16 from?

17 A There may be.

18 Q Okay. And earlier when we
19 were discussing the board meeting
20 minutes, you talked about how the
21 settlement funds that were listed on
22 those meeting minutes -- and we can turn
23 back to that if you need to, but they
24 were -- actually, let's turn back to
25 that.

1 P. GRANGER

2 that is because, you should have
3 something on top.

4 BY MS. KAPOANO:

5 Q So generally speaking, when
6 the Water District receives funding in a
7 settlement, does it place that funding in
8 an interest-bearing account at a bank?

9 A Yes.

10 Q Does it receive bank
11 statements as far as money earned through
12 interest on those accounts?

13 A Yes.

14 Q And the Water District
15 maintains copies of those bank
16 statements?

17 A Yes.

18 Q Where would those documents be
19 located?

20 A At the District.

21 Q Electronically or in hard
22 copy?

23 A Depending how far back,
24 combination of both.

25 Q And would the Water District

1 P. GRANGER

2 be able to retrieve all such bank
3 statements relating to funds that were
4 received in settlement?

5 A I believe so.

6 Q I have just a few more
7 questions on this topic, and then we can
8 take a break. I know it's been a little
9 while.

10 Are you aware of any other
11 settlements, other than what we've just
12 discussed today, that have been received
13 by the Water District for the
14 installation of AOP treatment at Plant 5?

15 A No.

16 Q Same question for Plant 4.

17 A No.

18 Q I'm going to name for you
19 settling defendants in this case. So
20 each of these parties has filed notice
21 with the Court that they've settled with
22 the Water District, and I'm going to ask
23 you how much money you received in the
24 settlement payment from each of these
25 defendants. So do you understand what

1 P. GRANGER

2 I'm asking?

3 A Yes.

4 Q All right. So the first --

5 MR. GITELMAN: I will -- you can
6 ask him if you know, but not the
7 amount of the payment. I'll instruct
8 him not to answer at this time.

9 MS. KAPOANO: On what basis are
10 you instructing him not to answer?

11 MR. GITELMAN: There is a motion
12 pending right now in courts, so once
13 it's determined, we can revisit the
14 issue.

15 MR. HOOKER: But you said we
16 could ask questions in deposition, to
17 the Court.

18 MR. GITELMAN: You can ask. You
19 can ask to the extent he knows.

20 MR. HOOKER: You said you're
21 instructing him not to answer.

22 MR. GITELMAN: Well, it depends
23 on the specific question. Go ahead.

24 BY MS. KAPOANO:

25 Q So the question is what I just

1 P. GRANGER

2 laid out which is: How much money did
3 you receive from each of these parties?

4 MR. GITELMAN: If he knows.

5 MS. KAPOANO: Okay. And I'll
6 point out for the record that it
7 would be very beneficial to have
8 access to these documents so that the
9 witness doesn't have to rely on his
10 memory.

11 Q But we'll go with your memory
12 for now. The first party is B&G
13 Lighting, doing business as Spectrum. Do
14 you know how much money was received from
15 that party?

16 A I don't recall.

17 Q What about IMC Eastern
18 Corporation?

19 A I don't recall.

20 Q ITC Corporation?

21 A I don't recall.

22 Q Fuji Film North America
23 Corporation?

24 A I don't recall.

25 Q 750 Summa Avenue, LLC?

1 P. GRANGER

2 A I don't recall.

3 Q Equity Share 1 Associates?

4 A I don't recall.

5 Q KB Company?

6 A I don't recall.

7 Q AF Chem Corporation?

8 A I don't recall.

9 Q Do you have any recollection
10 of any of the total -- strike that.

11 Do you have any recollection
12 of how much money the District has
13 received so far in this litigation?

14 A I do not.

15 Q Do you know if --

16 MR. GITELMAN: Can we go off the
17 record for a second?

18 MS. KAPOANO: Can we -- okay. Go
19 off the record.

20 THE VIDEOGRAPHER: We are now off
21 the record. The time on the video
22 monitor is 4:22 p.m.

23 (Whereupon, a recess took
24 place.)

25 THE VIDEOGRAPHER: We are now

1 P. GRANGER

2 back on the record the time on the
3 video monitor is 4:23 p.m.

4 BY MS. KAPOANO:

5 Q Mr. Granger, I am going to ask
6 you if you could approximate how much
7 money has been received from the eight
8 settling defendants in this matter.

9 A From the eight settlement --
10 it wasn't a large amount. You were
11 asking me specifics, and I can't give you
12 specific numbers. Magnitude-wise, it was
13 a small amount, in the \$100 to \$200,000
14 range perhaps.

15 Q The range that you've just
16 given, which is an approximation of 100
17 to 200,000, is that, to your
18 recollection, the range that has been
19 received from each of the eight
20 defendants I have identified?

21 A In aggregate.

22 Q Did you -- did the Water
23 District receive more than \$200,000 from
24 any of the eight defendants that I
25 identified.

1 P. GRANGER

2 A I don't recall.

3 Q Have the funds received from
4 the eight settling defendants in this
5 matter -- have they been earmarked
6 specifically for 1,4-dioxane treatment?

7 A I don't think the board has
8 made that determination. They would be
9 the one that would approve the
10 allocations.

11 Q So has the board considered
12 approval of settlement agreements with
13 any of these eight defendants?

14 A Repeat that question again,
15 I'm sorry.

16 Q Has the board of commissioners
17 approved -- strike that.

18 Earlier today you had stated
19 that the board meeting minute resolutions
20 of the board of commissioners would
21 include information on the approval of
22 the settlement agreement as well as any
23 restrictions on settlement funding,
24 correct?

25 A Yes.

1 P. GRANGER

2 Q So in connection with the
3 eight settlements that the Hicksville
4 Water District has entered into in this
5 litigation, has the board approved the
6 settlement agreements with these eight
7 defendants?

8 A Yeah, if they settled, they
9 would have approved the -- yeah, sure.
10 Yes.

11 Q And would those board meeting
12 minutes contain the exact amount of the
13 settlement payment?

14 A I don't believe so.

15 Q And would those board minutes
16 contain information relating to whether
17 the funds are earmarked for specific
18 types of treatment?

19 A I don't recall if the board
20 has made their determination of how they
21 are going to use that money yet.

22 Q Have you looked at the
23 settlement agreements yourself?

24 A We had our general counsel
25 review it.

1 P. GRANGER

2 Q So you personally did review
3 any of the eight settlement agreements
4 that have been entered into in this
5 litigation.

6 A No.

7 Q And you have no knowledge as
8 to whether the settlement agreements
9 included provisions restricting those
10 funds for 1,4-dioxane treatment only?

11 A No. I don't have that
12 knowledge.

13 Q Have the funds received in
14 settlement from these eight settling
15 defendants -- have they been spent?

16 A No. I don't believe so.

17 Q And where are they being held
18 right now?

19 A I would assume it was probably
20 put into the general fund at this
21 junction.

22 Q Are they segregated in a
23 separate interest-bearing account,
24 similar to the settlement funds we looked
25 at in the 2019 board minutes?

1 P. GRANGER

2 A I don't recall. I would need
3 to look into that.

4 Q Do you know if the funds
5 received from the eight settling
6 defendants in this matter have been
7 earmarked for particular plants? Or can
8 they be spent at any plant in the Water
9 District?

10 A I don't think we've had that
11 level of conversation yet.

12 Q Would the commissioners of the
13 Hicksville Water District have reviewed
14 the settlement agreements prior to
15 approving them?

16 A They would rely on general
17 counsel for their opinion to make that
18 authorization. So that's more of a legal
19 determination on their end, whether they
20 accept it.

21 Q Do you know if the settlements
22 with the eight settling defendants in
23 this matter -- do you know if they cover
24 any future unknown contaminants?

25 A Would it cover it -- I -- once

1 P. GRANGER

2 again, it's to the extent that we can use
3 the money, if it's unrestricted, it could
4 be covered -- used for anything.

5 Q But you don't know whether or
6 not it's restricted in any way, correct?

7 MR. GITELMAN: Objection.

8 A I do not know.

9 MS. KAPOANO: Okay. Let's take a
10 break.

11 THE VIDEOGRAPHER: We are now off
12 the record. The time on the video
13 monitor is 4:28 p.m.

14 (Whereupon, a recess took
15 place.)

16 THE VIDEOGRAPHER: We are now
17 back on the record. The time on the
18 video monitor is 4:39 p.m.

19 MS. KAPOANO: Mr. Granger, I'm
20 going to ask you to turn to tab 39,
21 and we're going to mark tab 39 as
22 Exhibit 24.

23 (Whereupon, Exhibit 24
24 was marked for
25 identification.)

P. GRANGER

C E R T I F I C A T E

I, DANIELLE DeYOUNG, a Shorthand Reporter
and Notary Public of the State of New York, do
hereby certify:

That the WITNESS whose examination is
hereinbefore set forth, was duly sworn, and
that such examination is a true record of the
testimony given by such WITNESS.

I further certify that I am not related to any
of the parties to this action by blood or
marriage; and that I am in no way interested in
the outcome of this matter.



DANIELLE DeYOUNG